

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8220 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

IMTIYAZBHAI HALIMBHAI SHAIKH

Versus

STATE OF GUJARAT

Appearance:

MS JAYSHREE C BHATT for Petitioner

MR.NEEGAM SHUKLA,APP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 08/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 26.4.1996 passed by the Police Commissioner, Ahmedabad City detaining the petitioner under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The petitioner is under detention lodged at Jamnagar Jail, Jamnagar.

This Special Civil Application was filed in this Court on 25.10.1996 and Rule was made returnable. So far no reply has been filed nor an affidavit of the Detaining

Authority has been filed.

The grounds enclosed in the detention order show that there were four criminal cases registered against the petitioner under the Bombay Prohibition Act. Besides this, the Detaining Authority has taken into consideration the statements made by certain witnesses with regard to the incidents dated 1.4.1996 and 15.4.1996. The petitioner has been found to be engaged in antisocial activities and has been detained as bootlegger.

The detention order has been challenged on morethan one ground. The only ground stressed is that no case for for breach of public order is made out.

In view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996, it is clear that the allegations and materials relied upon by the Detaining Authority against the petitioner do not constitute the case of breach of public order. At the most it can be said to be a breach of law and order and the detention order deserves to be set aside on this ground alone.

Accordingly, this Special Civil Application is allowed. The impugned detention order dated 26.4.1996 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside and the respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
